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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,714	03/26/2004	Raymond Carter	CARTER.01	8104

7590 05/25/2005  
PATRICK J. GLYNN  
SUITE 129  
5818 EAST UNIVERSITY BLVD.  
DALLAS, TX 75206

EXAMINER
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LOCKETT, KIMBERLY R

ART UNIT	PAPER NUMBER
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2837

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

10/809,714

Applicant(s)

CARTER, RAYMOND

Examiner

Kim R. Lockett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/26/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petruzzi in view of Christensen.

Petruzzi discloses the use of a water activated chiming device to produce tones of random sequence and degree comprising: at least one resonating means (24) for producing a tone or sound when impacted, a means (20) for delivering an upward flow of water having an apex located substantially on the vertical axis and where the apex decreases the production of tones random sequence and degree and lowering the striking means relative to the apex increases the production of tones of random sequence and degree; and a means to support and align the elements. Petruzzi further discloses a device that elevates a striking means relative to the apex (see figure 2). Petruzzi also discloses the use of a water flow system that includes a conduit, a vertical pipe having a circular opening positioned along a vertical axis having a horizontal upper end and a pumping apparatus (20) coupled to the lower end the conduit for producing upward water flow through the conduit to the striker and a water reserve (3) submerging the lower end of the conduit.

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Petruzzi does not disclose the use of a free hanging striker suspended along a vertical axis adjacent to the resonating means for striking the resonating means.

Christensen discloses the use of a chiming device a free hanging striker suspended along a vertical axis adjacent to a resonating means for striking the resonating means (see figure 6) where the spherical striking member (14) for exciting the striking means resulting in chaotic impacts with the resonating means to produce tones of random sequence and degree; and a means for adjustable suspension of the striking means along the vertical axis whereby elevating the striking means (column 5, lines 25-40). Christensen also discloses the use of tuned chimes in a chamber formed by a housing wherein the framework supports and unifies the elements (see figure 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the water chime derives as discloses by Petruzzi with the striker as disclosed by Christensen in order to assist in providing tone generation for chimes.

3. Papers related to this application may be submitted to Group 2800 by facsimile transmission. Papers should be faxed to Group 2800 via the PTO 2800 Fax Center at 703-872-9306.


For assistance in **Patent procedure, fees or general Patent questions** calls should be directed to the **Patents Assistance Center (PAC)** whose

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**telephone number is 800-786-9199.** Assistance is also available on the Internet at [www.uspto.gov](http://www.uspto.gov).

Any inquiry concerning **this communication or earlier communications from the examiner** should be directed to **Kim Lockett** whose telephone number is **(703) 308-7615**, after 2/3/04 my new number will be **(571) 272-2067**. The examiner can normally be reached on Tuesday through Friday from 6:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on (571) 272-2107.



**KIMBERLY LOCKETT**  
**PRIMARY EXAMINER**